

ROBERT B. FERGUSON

IBLA 75-294

Decided May 27, 1975

Appeal from decision of California State Office, Bureau of Land Management, returning seven oil and gas drawing entry cards (CA 2595).

Affirmed.

1. Oil and Gas Leases: Applications: Filing

An oil and gas simultaneous drawing entry card is properly returned to the applicant where the record shows that it was received in the Bureau office subsequent to the terminal hour and date set forth in the notice of lands available for simultaneous filing.

APPEARANCES: Robert B. Ferguson, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Robert B. Ferguson has appealed from the decision of the California State Office, Bureau of Land Management (BLM), returning seven of his oil and gas drawing entry cards each for separate parcels of and for the reason that they were filed late.

The record shows that the December 16, 1974, notice of lands available for the filing of oil and gas lease offers stated that the described "lands are subject to simultaneous filings of lease offers from 10 a.m., December 16, 1974, to 10 a.m., December 23, 1974," pursuant to the regulations in 43 CFR Subpart 3112. Appellant's offers were in each instance made on a "Simultaneous Oil and Gas Drawing Entry Card," Form 3112-1 (May 1974). The seven entry cards involved were mailed to the Bureau of Land Management in Sacramento, California, in an envelope with appellant's return address printed thereon which bears a postmark date of "AM 20 DEC 1974." The envelope is further stamped showing that it was received in the Bureau of Land Management, Sacramento, California, at 10 a.m., December 24, 1974. Thus, the drawing entry cards were filed one day late. BLM returned the entry cards to appellant for that very reason.

Appellant in his statement of reasons for his appeal explains that on December 19th at the time he mailed the subject offers in California, he also mailed four other envelopes. One was addressed to the Bureau of Land Management at Denver, Colorado. The other three were addressed to the Bureau of Land Management at Cheyenne, Wyoming. He maintains that each of those four envelopes contained drawing entry cards which also had to meet filing deadlines of 10 a.m., December 23, 1974. He asserts they were received in the respective Bureau offices in time to participate in those drawings. Appellant submits that the fact that four out of five of his envelopes were timely received proves that all five envelopes were mailed in time to make identical deadlines. In view thereof, he requests the subject drawing entry card offers for Parcel Nos. 2, 4, 5, 6, 8, 9, and 10 be reinstated. 1/

[1] A regulation of the Department of the Interior concerned with minerals management provides that a document is considered filed when it is received in the proper office during business hours. 43 CFR 3000.5-1. Consequently, appellant's seven drawing cards in the envelope addressed to the Bureau of Land Management at Sacramento, California, were filed in that office at 10 a.m., December 24, 1974, the date and time they were received. In this circumstance, they were filed late. The fact that the subject entry cards were mailed at the same time from the same place as other entry cards addressed to more distant Bureau offices, which cards met the identical filing deadlines, is not a legal reason for accepting the subject drawing cards. Clearly, they were not filed within the time allowed for the filing of simultaneous offers as specified in the California State Office, BLM, notice of December 16, 1974. Often hundreds of offers are received for a parcel under the simultaneous filing procedures. Besides being unauthorized under section 3112.1-2, it would impractical to reschedule such drawings where particular offers are delayed in the mails. Accordingly, the State Office properly returned the entry cards to appellant because of late filing.

1/ Appellant suggests that the Bureau of Land Management during the month of December refrain from posting a list of lands available for oil and gas leasing, for the reason that the Christmas mail rush and resultant delays reduce the time prospective offerors have within which to receive the lists of lands available and to mail their drawing entry cards for timely filing. Appellant further suggests the regulations be amended to provide a reasonable grace period for the receipt of oil drawing entry card filings.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Joseph W. Goss
Administrative Judge

